

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TruePosition, Inc.,)	
)	
Plaintiff/)	
Counterclaim-Defendant,)	
)	Civil Action No. 05-747-SLR
v.)	
)	
Andrew Corporation,)	
)	
Defendant/)	
Counterclaim-Plaintiff.)	
)	

**TRUEPOSITION'S MOTION TO STRIKE ANDREW'S POST-TRIAL
EVIDENCE AND ALL ARGUMENTS BASED ON SUCH EVIDENCE IN ANDREW'S
POST-TRIAL BRIEFS IN SUPPORT OF ITS REMAINING EQUITABLE DEFENSES**

Plaintiff/Counterclaim-Defendant TruePosition, Inc. ("TruePosition") hereby respectfully moves to strike post-trial evidence submitted by Andrew and all arguments based on such evidence in Andrew's Opening and Reply Post-Trial Briefs In Support of Its Remaining Equitable Defenses.

The grounds in support of this motion are set forth in the accompanying memorandum in support of this motion, which is incorporated herein by reference.

Respectfully submitted,

DATED: December 21, 2007

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)	
Defendant/)	
Counterclaim-Plaintiff.)	
_____)	

ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of TruePosition's Motion to Strike Andrew's Post-Trial Evidence and All Arguments Based On Such Evidence In Andrew's Post-Trial Briefs In Support of Its Remaining Equitable Defenses, together with the supporting memorandum and all opposing papers thereto, it is hereby ORDERED that TruePosition's motion is GRANTED.

The following is stricken from the post-trial record:

- 1) Declaration of Oskar Magnusson In Support of Andrew Corporation's Post-Trial Reply Brief in Support of Its Remaining Equitable Defenses (D.I. 352) ("Magnusson Decl.");
- 2) Exhibit A to the Magnusson Decl.;
- 3) Exhibit B to the Magnusson Decl.;
- 4) Declaration of Dieter Kaiser, former chairman of the ETSI board ("Kaiser Decl.") (D.I. 353 at X17-X19);

5) Oct. 23, 2007 Letter from Dr. Walter Weigel to Mr. Oskar Magnusson of Andrew Corp. enclosing Oct. 19, 2007 Letter from Dr. Walter Weigel to Ms. Terri Brooks of TruePosition, Inc. (D.I. 330 at A231-32);

6) All references to 1-5 in Andrew's Post-Trial Opening Brief In Support of Its Remaining Equitable Defenses including the following:

- a) The last two sentences of the first paragraph on page 3 of D.I. 325;
- b) The entire first paragraph and the entirety of footnote 7 on page 12 of D.I. 325;
- c) The entire first full paragraph on page 36 of D.I. 325; and
- d) The last two sentences of the first full paragraph on page 49 of D.I. 325;

7) All references to 1-5 in Andrew's Post-Trial Reply Brief In Support of Its Remaining Equitable Defenses including the following:

- a) The first full paragraph on page 5 and the entirety of footnotes 2-3 on page 5 of D.I. 351;
- b) The following sentence of footnote 4 on page 7 of D.I. 351: "That belief is what triggered the duty to declare the patent. *See* Magnusson Decl. Ex. A ("I am obliged to bring this matter to your attention to ascertain whether you are of the opinion that you hold essential or potentially essential, IPRs"); and
- c) All of the text and the entirety of footnote 5 on page 8 of D.I. 351; and
- d) The first full paragraph on page 9 of D.I. 351.

BY THE COURT:

Sue. L. Robinson
United States District Judge

CERTIFICATE OF SERVICE

I, James D. Heisman, hereby certify that on this 21st day of December, 2007, I caused a true and correct copy of the foregoing TRUEPOSITION'S MOTION TO STRIKE ANDREW'S POST-TRIAL EVIDENCE AND ALL ARGUMENTS BASED ON SUCH EVIDENCE IN ANDREW'S POST-TRIAL BRIEFS IN SUPPORT OF ITS REMAINING EQUITABLE DEFENSES to be served upon the following individuals in the manner indicated below:

Via hand-delivery

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